

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

TAMMY BLUFORD,

Plaintiff,

v.

LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON,

Defendant.

C.A. No. 6:09-cv-02398-HFF

CONSENT ORDER

This action is brought by Plaintiff seeking long-term disability (“LTD”) benefits pursuant to an employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, et seq. This matter is before the Court on the Parties’ joint motion to remand this matter to permit Liberty Life to complete its review of Plaintiff’s claim for LTD benefits. The Court is advised that, by letter dated September 4, 2009, Liberty Life denied Plaintiff’s claim because it alleged Plaintiff failed to provide certain requested information. Plaintiff did not appeal the denial of September 4, 2009. This action was filed on September 11, 2009. The Court is further advised that, under all the circumstances of this case, the Parties agree that it is appropriate that this matter be stayed and remanded to Liberty Life for further administrative proceedings on the merits of Plaintiff’s claim, including – but not limited to – review of the documentation requested by Liberty Life. The Parties have submitted this proposed consent order pertaining to the terms for managing the stay, remand, and Plaintiff’s appeal.

The Court is satisfied that this case should be stayed and remanded to Liberty Life for further administrative proceedings on the merits of Plaintiff’s claim, and

to allow Plaintiff to exhaust her administrative remedies.

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED that:

1) This action is hereby stayed and remanded to Liberty Life for further administrative proceedings.

2) Within thirty (30) days from the date of this Order, Plaintiff shall submit any and all documentation she desires to be considered on remand, if it is available, which is responsive to the correspondence from Liberty Life dated June 29, 2009 and July 14, 2009 (copies attached as exhibits A and B, respectively). Such documentation shall be provided to the following address:

Kathy Underwood
Liberty Life Assurance Company of Boston
P.O. Box 49470
Charlotte, NC 28277

(For FedEx or UPS)
The Crawford Building
13830 Ballantyne Corporate Place
Suite 400
Charlotte, NC 28277

3) The deadline for Liberty Life's determination, including extensions and deadlines for Plaintiff's response to requests for additional information, shall be governed by the terms of 29 C.F.R. §§ 2560.503-1(f)(3) and (4), starting with the date Liberty Life receives confirmation from Plaintiff that she has submitted all information she desires to be considered for Liberty Life's determination of her claim.

4) If Plaintiff's claim is approved by Liberty Life, the Parties anticipate filing a joint stipulation of dismissal with the Court within fourteen (14) days of the date of the determination letter.

5) If Liberty Life denies Plaintiff's claim, Liberty Life shall provide a copy of the entire Administrative Record to Plaintiff's counsel along with its determination letter and, Plaintiff shall thereafter advise Liberty Life whether or not Plaintiff wishes to submit additional documentation for further review. If Plaintiff determines further administrative review is not required, the Parties shall submit to the Court a joint motion to lift the stay with a proposed amended case management order for continuation of the litigation within fourteen (14) days of the date Plaintiff so advises Liberty Life. Otherwise, the Parties will file a joint report advising the Court regarding the status of the administrative review. If a final determination regarding Plaintiff's claim and/or appeal has not been made within one hundred twenty (120) days from the date of this Order, the Parties shall submit a joint status report to the Court.

6) The parties are stayed from taking any further action in this case until this administrative review has ended and the stay is lifted, except as described herein.

7) No party waives any right to assert any defense or claims currently available to it.

IT IS SO ORDERED.

s/Henry F. Floyd

Henry F. Floyd
United States District Judge

This 29th day of January, 2010

We so move:

FOR PLAINTIFF:

Robert E. Hoskins

Robert E. Hoskins
(Fed. Bar No. 5144)

THE FOSTER LAW FIRM, L.L.P.

601 East McBee Avenue
Suite 104
Greenville, South Carolina 29601
Tel. (864) 242 6200

Dated this 29th day of January, 2010

FOR DEFENDANT:

Robert M. Wood

Robert M. Wood (Fed. Bar No. 7811)

Ashley B. Abel (Fed. Bar No. 1032)

Julia M. Ebert (Fed. Bar No. 10205)

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Dated this 29th day of January, 2010